



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE  
DIRECTOR

December 10, 1993  
AO-93-31

Clifford Askinazi, Vice President  
New England Images, Inc.  
P.O. Box 353  
Sudbury, MA 01776

Re: Conducting Auctions for Political Committees

Dear Mr. Askinazi:

This letter is in response to your May 18, 1993, request for an advisory opinion as to whether the campaign finance law, M.G.L. c.55, permits your company, New England Images, Inc. ("NEI") to be hired by a political committee<sup>1</sup> to conduct an auction as part of a campaign event.

You have stated that it is your understanding that NEI could conduct an auction for a political committee subject to certain conditions. First, NEI must sell items for auction to the political committee at fair market value as NEI does with all customers. Next, NEI would have to be hired to conduct the auction at the usual fee charged to all other customers. Finally, persons attending the auction could bid on and pay for any item by personal check made out to the political committee.

The campaign finance law and regulations promulgated by this office provide that political committees may make expenditures for various specifically enumerated expenditures including expenditures "for fundraising . . . , which may include beverages, food entertainment, decorations, bartenders, security officers and service and maintenance persons." See M.G.L. c.55, s.6 and 970 CMR 2.05(2)(o).

The regulations also provide that expenditures which are not specifically enumerated but which are similar to those expenditures and not otherwise inconsistent with law or regulation are also permitted. While your request for an opinion does not identify the purposes of the auction, I assume it is to raise money for a political committee. Therefore, it is this office's opinion that a political committee may conduct an auction in connection with a fundraising event and make expenditures in relation to such an event consistent with the campaign finance law and regulation. These expenditures may include the purchase of items from NEI to be auctioned at the fundraising event as well as the hiring of NEI to conduct the auction subject to the restrictions noted below.

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<sup>1</sup>. While you ask if you may be hired by a candidate, this opinion is intended to apply to either a candidate or the candidate's political committee. Since most candidates have political committees organized on their behalf which handle all campaign finance matters, I will refer to political committees rather than candidates.

First, you are correct that any items sold by NEI to the political committee to be auctioned at the fundraising event must be sold to the political committee at the item's fair market value.<sup>2</sup> If any item were sold to the political committee at less than fair market value, NEI would be making an in-contribution to the political committee. Since NEI is a business corporation such an in-kind contribution would violate the campaign finance law's prohibition against contributions by business corporations. See M.G.L. c.55, s.8 and 970 CMR 2.07(3). See also Op. Atty. Gen., November 6, 1980. Similarly, you are correct that NEI can be hired to conduct the auction in connection with the fundraising event provided NEI charges its usual and customary fee.

Finally, you are also correct that persons attending the auction may bid on and pay for any item by personal check made out to the political committee.<sup>3</sup> In order to insure that individuals do not exceed the \$1,000 statutory limitation on individual contributions and to avoid complex recordkeeping and accounting problems we have consistently advised political committees to consider and report the full amount paid by an individual at an auction as a contribution. Political committees must, therefore, exercise caution and implement appropriate safeguards for those participating in a fundraising auction in order to insure that an individual does not make and that the political committee does not receive, an excess contribution in violation of M.G.L. c.55, s.7. In addition, a political committee must maintain detailed accounts and records of the auction, report all funds received or expended in connection with a fundraising auction and be able to document the cost of all items purchased. See M.G.L. c.55, ss. 2, 5 and 18.

In conclusion, a political committee may purchase items from NEI and hire NEI to conduct a fundraising auction provided that it pays fair market value for the items purchased, hires NEI for its usual and customary charge, maintains detailed accounts and records, and implements appropriate safeguards to insure that individuals do not make, and that the political committee does not receive, contributions from an individual in excess of the \$1,000 statutory limitation.

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2. Once an item has been purchased it would become an asset of the committee. If it is not sold at auction it could only be disposed of in a manner similar to any other asset of the committee. In addition, as long as the asset was owned by the political committee it would, to the extent applicable, have to be reported on Schedule E of the political committee's Year End Report. See 970 CMR 2.08.

3. The campaign finance law requires that all contributions from any one person or political committee must be by check if the aggregate amount contributed in a calendar year exceeds \$50. Aggregate cash contributions equal to or less than \$50 are, therefore, permitted. Of course, contributions equal to or less than \$50 may also be by check. See M.G.L. c.55, s.9.

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This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,

A handwritten signature in cursive script, reading "Mary F. McTigue". The signature is written in dark ink and is positioned above the printed name and title.

Mary F. McTigue  
Director

MFM/cp